

Serial No.: 09/663,963

Art Unit: 1651

REMARKS/ARGUMENT

Favorable consideration and allowance of the instant application is respectfully requested in view of the following remarks.

The Examiner's rejections, as they pertain to the patentability of the claims, are respectfully traversed.

Claims 1-3, 6-7 and 10-12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Shirai et al. (US 5,618,708). This rejection is respectfully traversed for the following reasons.

Initially, Applicant would like to note that it is very well settled that a factual determination of anticipation requires the disclosure, in a single reference, of each and every element of the claimed invention, and an Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. See, In re Levy, 17 USPQ2d 1561 (Bd. Pat. App. & Inter. 1990).

Applicant respectfully submits that the Shirai reference fails to anticipate the claimed invention on the grounds that it fails to disclose each and every element thereof. More particularly, the claimed invention is directed to a fermentation medium containing, among other elements, a source of biotin **substantially free of both particulate matter and bacteria**. Moreover, the presently claimed fermentation medium **requires** the presence of biotin, a source of phosphate and at least one metal component, in said fermentation medium. The Shirai reference, on the other hand, discloses the use of all of these components as being **merely optional**. As a result, since this reference fails to disclose the use of a source of biotin **substantially free of both particulate matter and bacteria**, coupled with the reference's failure to **mandate** the presence of biotin, a source of phosphate and at least one metal component, in its fermentation medium, it cannot serve to anticipate the claimed invention, per In re Levy, supra.

Serial No.: 09/663,963
Art Unit: 1651

this rejection is respectfully requested.

It is believed that the foregoing reply is completely responsive under 37 CFR § 1.111 and that all grounds for rejection are completely avoided and/or overcome. A Notice of Allowance is therefore earnestly requested.

The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,



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